

ESTTA Tracking number: **ESTTA28114**

Filing date: **03/14/2005**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Notice of Opposition**

Notice is hereby given that the following parties oppose registration of the indicated application.

**Opposers Information**

<b>Name</b>	Pearle Vision, Inc.
<b>Granted to Date of previous extension</b>	03/13/2005
<b>Address</b>	1925 Enterprise Parkway Twinsburg, OH 44087 UNITED STATES

<b>Name</b>	Pearle, Inc.
<b>Granted to Date of previous extension</b>	03/13/2005
<b>Address</b>	1925 Enterprise Parkway Twinsburg, OH 44087 UNITED STATES

<b>Attorney information</b>	Michael D. Fishman Rader, Fishman & Grauer PLLC 39533 Woodward Ave., Ste. 140 Bloomfield Hills, MI 48304 UNITED STATES tmdocketing@raderfishman.com Phone:248-594-0600
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**Applicant Information**

<b>Application No</b>	78249467	<b>Publication date</b>	09/14/2004
<b>Opposition Filing Date</b>	03/14/2005	<b>Opposition Period Ends</b>	03/13/2005
<b>Applicant</b>	Doerring, Inka Apt 3D 8 Gramercy Park South New York, NY 10003 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 003.

All goods and services in the class are opposed, namely: Eye products, namely, eye makeup, eye shadow, eyeliner, eye pencils and eye creams

<b>Attachments</b>	20050314135555304.pdf ( 4 pages )
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<b>Signature</b>	/Linda E. Sudzina/
<b>Name</b>	Linda E. Sudzina
<b>Date</b>	03/14/2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PEARLE VISION, INC. and  
PEARLE, INC.,

Opposers,

Opposition No. \_\_\_\_\_  
Serial No. 78/249,467  
Mark: PEARL EYES

v.

INKA DOERRING,

Applicant.

\_\_\_\_\_ /

**NOTICE OF OPPOSITION**

Pearle Vision, Inc. and Pearl, Inc. (collectively, "Opposers"), both Delaware companies, having a principal place of business at 1925 Enterprise Parkway, Twinsburg, Ohio 44087, believe that they will be damaged by registration of the mark PEARL EYES, Application Serial No. 78/249,467, by Inka Doerring ("Applicant"), and hereby oppose the same on the grounds that (1) the mark is likely to cause confusion or mistake, or to deceive consumers in view of: (a) Opposers' use of various marks formed or dominated by "PEARLE" (collectively, "Opposers' PEARLE Marks") and (b) Opposers' U.S. Registrations therefor, including Nos. 1,228,785 for PEARLE; 1,529,383 for PEARLE; 1,634, 558 for PEARLE EXPRESS; 2,457,209 for PUT YOUR PEARLES ON; 2,851,135 for E-PEARLE; 1,634,577 for PEARLE EYE+TECH EXPRESS; 1,476,587 for PEARLE LENS; 2,349,286 for PEARLE VISION; 1,633,854 for PEARLE VISION CENTER; 1,538,542 for PEARLE VISION CENTER & DESIGN; 1,622,998 for PEARLE VISION EXPRESS; 1,603,022 for PEARLE VISION EXPRESS &

DESIGN; 2,482,693 for NOBODY CARES FOR EYES MORE THAN PEARLE; 2,330,661 for NOBODY CARES FOR EYES MORE THAN PEARLE; and 2,433,974 for NOBODY CARES FOR EYES BETTER THAN PEARLE (collectively, “Opposers’ PEARLE Registrations”); and (2) registration of Applicant’s mark will dilute the distinctiveness of Opposers’ famous marks by tarnishing them and by blurring the distinctiveness thereof.

1. Opposers are extensively engaged in the business of manufacturing (or having manufactured for them), marketing and selling quality eye wear products and providing optical store, optometric and optician services (“Opposers’ Goods/Services”).

2. In connection with the above-stated activities, Opposers have used Opposers’ PEARLE Marks in commerce since at least as early as 1961.

3. As a result of the quality of Opposers’ Goods/Services and the widespread promotion thereof under Opposers’ PEARLE Marks, the goods/services have met with substantial commercial success and customer recognition. Opposers’ PEARLE Marks have become symbols of Opposers, their quality products and their goodwill. In addition, Opposers’ PEARLE Marks are famous.

4. In recognition of the valuable rights in and to Opposers’ PEARLE Marks, the United States Patent and Trademark Office has issued Opposers’ PEARLE Registrations. Many of these registrations are incontestable, and thus constitute conclusive evidence of the validity of the marks, the registrations therefor, Opposers’ ownership of the marks and Opposers’ exclusive right to use the marks in commerce.

5. Opposers’ PEARLE Marks were used prior to, were the subject of applications filed prior to or were registered prior to Applicant’s filing date.

6. On information and belief, Applicant is an individual with an address of Apt. 3D 8 Gramercy Park South, New York, New York 10003.

7. Notwithstanding Opposers' prior rights in and to Opposers' PEARLE Marks and Registrations, Applicant filed, on May 14, 2003, Application Serial No. 78/249,467 for the mark PEARL EYES ("Applicant's Mark") for "eye products, namely, eye makeup, eye shadow, eyeliner, eye pencils and eye creams," in Class 03 ("Applicant's Goods").

8. On information and belief, Applicant's Mark PEARL EYES is substantially similar to Opposers' PEARLE Marks.

9. Further, on information and belief, Applicant's Goods and Opposers' Goods/Services are substantially similar or related and are marketed to and purchased by the same class of purchasers.

10. In view thereof, purchasers and others are likely to mistakenly assume that Applicant's Goods originate from, are sponsored by or are in some way associated with Opposers. Applicant's Mark so resemble Opposers' PEARLE Marks as to be likely to cause confusion, or to cause mistake or to deceive. Accordingly, Opposers are likely to be damaged by registration of the mark of Application Serial No. 78/249,467.

11. In addition, Opposers' PEARLE Marks are famous. Registration of Applicant's Mark is highly likely to dilute the strength of and blur and tarnish the distinctiveness of Opposers' PEARLE Marks.

WHEREFORE, Opposers pray that Application Serial No. 78/249,467 be refused registration, that no registration be issued thereon to Applicant and that this Opposition be sustained in favor of Opposers.


A filing fee for the Notice of Opposition in the amount of \$600.00 should be charged to Deposit Account No. 18-0013. Any additional fees required should be charged to the same account.

In accordance with 37 CFR §2.104(a), a duplicate copy of this Notice of Opposition is attached.

Respectfully submitted,

Dated: March 14, 2005

By:



Michael D. Fishman

Linda E. Sudzina

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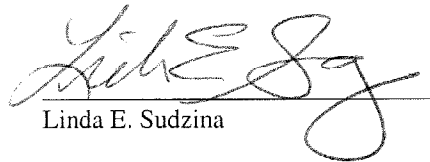
*PTO Customer Number 010291*

*Attorneys for Opposers*

**CERTIFICATE OF TRANSMITTAL**

I hereby certify that this correspondence is being electronically transmitted in PDF format to the Trademark Trial and Appeal Board through the Electronic System for Trademark Trial and Appeals (ESTTA) on the following date:

Date: March 14, 2005



Linda E. Sudzina

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